

STATEMENT OF
THE HONORABLE EDDIE BERNICE JOHNSON
COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE
HEARING ON “STATUS OF THE NATION’S WATERS, INCLUDING WETLANDS,
UNDER THE JURISDICTION OF THE FEDERAL WATER POLLUTION CONTROL
ACT”

17 JULY, 2007

Mr. Chairman, thank-you for holding this hearing on wetlands and water quality protection under the Clean Water Act.

In addition to this being an important issue in its own right, I am also looking forward to learning more about the original purpose and intent of the Clean Water Act Amendments of 1972. You were a staffer here in the Capitol at the time, and have a historical perspective to which very few others working here today were witness.

But Mr. Chairman, while those Amendments were passed many years ago, and while those laws and regulations worked quite well for a long period, times have changed.

In recent years, the Supreme Court has just stepped right in, and subverted the purpose and protections of the Clean Water Act.

Like water under a bridge – congressional intent was simply washed away.

The Court, however, didn't just ignore Congress – it decided to forego a central component of jurisprudence – judicial deference to agency expertise.

The Court, once again, has allowed itself to enter the realm of politics. The Court, Mr. Chairman, is not composed of elected officials – it should not be making decisions based on politics. The Court, Mr. Chairman, is not made up of biologists, or scientists, or technical experts. It has no place pretending it can make these decisions.

When the Court makes decisions that are driven by ideology, driven by politics – it makes mistakes.

Sadly enough, we know all too well the ramifications of the Bush v. Gore decision; we will soon see the mess that's the result of the Rapanos decision.

The Rapanos decision and the muddled Guidance that has followed will only result in continued confusion and added expense for the regulated community. This, Mr. Chairman, is confusion that simply did not exist prior to the 2001 SWANCC decision.

And it's not just regulatory confusion that's resulted from these decisions.

Grave environmental harm – damage to our streams and wetlands – has come about from these unwarranted actions by the Court.

Mr. Chairman – important national policy affirmed by the Congress, and reaffirmed by the technical expertise of our agencies should not be subverted by the Court.

It's a matter of clean drinking water for all of this country's citizens. It's a matter of protecting our so very valuable water resources.

I look forward to today's hearing to learn more about how the Court has got this so wrong, and about the implications of these Court decisions on the important issue of wetlands and water quality protection.

Thank-you.